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OFFICE OF PETITIONS

In re Application of
Bruce A. Kehr, et al.
Application No. 09/845,066
Filed: May 7, 2001
Attorney Docket No.: 20010427

ON PETITION

This is a decision on the petition filed March 10, 2005, to correct the filing date to April 27, 2001, rather than the presently accorded filing date of May 7, 2001. This petition is treated under 37 CFR 1.10.

Petitioners request the earlier filing date on the basis that in accordance with 37 CFR 1.10 the application was properly filed, and base the claim on the date the certificate of mail, pursuant to 37 CFR 1.8, was signed.

Paragraph (a) of 37 CFR 1.10 states that:

Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.¹ (emphasis added)

Petitioners should note that there is no requirement under 37 CFR 1.10 for a certificate of mailing by "Express Mail",²

Since petitioners are relying on the Certificate of Mail as proof of deposit on April 27, 2001, and since petitioners have not provided any other corroborating evidence of the filing date, the date presently accorded, May 7, 2001, will not be changed and the instant petition is **DISMISSED**.

Furthermore, the petition fee for a petition under 37 CFR 1.10 is \$400.00 not \$130.00

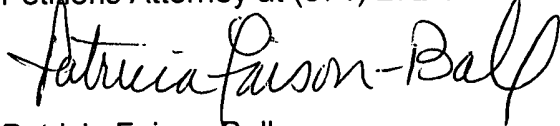
¹ See 37 CFR 1.6(a).

² See 1174 O.G. Pat. Of. 92 (May 16, 1995).

as indicated in the petition. Per the authorization in the petition, deposit account no. 50-0417 will be charged in the amount of \$400.00.

This matter is being referred to Technology Center 3626 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned
Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial 'P'.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions